

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

EFS&T Department – Sale of Red sanders wood to M/s Japan Traditional Musical Instruments manufactures and wholesalers Association, Tokyo, Japan Cancellation of Agreement and forfeiture of security deposit of M/s Japan Traditional Musical Instruments manufactures and wholesalers Association, Tokyo, Japan- Orders –Arbitration by Govt., orders-Issued.

ENVIRONMENT, FORESTS, SCIENCE & TECHNOLOGY (FOR.III) DEPARTMENT

G.O.Rt.No. 632

Dt.21.12.2009

Read the followings:-

1. G.O.Ms.No.114 EFS&T (For.III) Department, dated:18.09.1997.
2. G.O. Ms.No.129 EFS&T (For.III) Department, dated:09.10.1999
3. From the VC&MD, APFDC Ltd., Hyderabad, Letter No.6.5.2003/92-97/RS Wood/1612, Dt.17.04.2003 & 11.03.2005
4. From VC&MD, APFDC Ltd., Hyderabad, Letter No.6.5.2003/92-97/RS Wood/Vol.XV/5486, Dt.22.11.2008.
5. From the Prl.CCF,AP, Hyderabad, D.O. Letter No.13759/ 2007/ V1,Dt.12.11.2009.

ORDER:-

Government vide G.O.Ms.No.114 EFS&T (For.III) Department, dated:18.09.1997 have issued orders authorizing the A.P.F.D.C.Ltd., to negotiate and to enter into an agreement with to M/s Japan Traditional Musical Instruments Manufactures & Wholesalers Association, Tokyo to supply 300 Mts of R.S. Wood Logs at a uniform rate of US\$ 3000 per M.T. The firm has paid an amount of US \$ 1,50,000 on 9.07.1998 and lifted a quantity of 49.8225 MT of R.S. Wood logs but failed to pay any amount for balance quantity of 250 Mts of R.S. Wood. On the representation of the Association, the Government vide G.O. Ms.No.129 EFS&T (For.III) Department, dated:09.10.1999 have issued orders extending the time of agreement upto 9.08.2000 and directed the Association to deposit an amount of US \$ 10,000 as security deposit. The Association deposited the amount on 16.03.2000 and not paid any amount towards sale value for the balance 250 Mts. for failure to pay and lift the material as per the agreement conditions, a penalty of US \$ 1,25,000 was imposed for 250 Mts @ US \$ 500 per MT as per Clause II (i) of the Agreement.

2. The Government vide G.O.Ms No.111, EFS&T Department, Dt.7.12.2001 have granted further extension of time up to 30-06-2002 to the Association for lifting of 250 MTs of RS wood in 3 equal installments by making advance payments and directed the Association to deposit another US \$ 30,000 towards additional security deposit. The firm paid the amount on 11-12-2001 and failed to pay the installment amounts and to lift the material before 30-06-2002.

3. The VC & MD, APFDC, Ltd., Hyderabad has reported that out of the 300 MTs of RS Wood Logs supplied to the firm by the Government, the firm has lifted only a quantity of 49.8225 MTs of RS Wood logs by paying US \$ 1,50,000 on 9.07.98. The firm has not paid any amount for the balance quantity of 250 MTs RS Wood logs. The firm has paid totally 50,000 US \$ as Security deposit, out of which an amount US \$ 10,000 was adjusted in the penalty amount of US \$ 1,25,000 to be paid by the firm. Thus the Firm has to pay US \$ 1,15,000 towards penalty @ US \$ 500 MTs for non lifting of the material under Clause II(i) of the agreement dated:17.02.1998.

P.t.o

4. The firm has requested to adjust the balance US \$ 40,000 towards penalty for non-lifting of the quantity of 250 MTs of RS Wood logs and settle the case as they are not in a position to pay the penalty amount. Further the association have informed that they do not have a member no finance and no staff and not even in a position to pay the penalty and lift the balance material and agreed for termination of the agreement but represented for arbitration in the matter. The firm has agreed for confiscation of unlifted quantity of 24.1867 MTs of RS Wood reapers available in the godowns of M/s Andhra Fogaku Pvt. Ltd by the Government. If the firm has lifted the 250 MTs of RS Wood, the firm has to pay US \$ 7,50,000 @ 3,000 US \$ per MT towards the cost of the material. Since the firm has not lifted the said quantity, a penalty of 1,25,000 US \$ has been imposed on the firm. Out of the said amount of 1,25,000 US \$, an amount of US \$ 10,000 was adjusted towards penalty from the Security Deposit available with the Government (i.e. US \$ 50,000).

5. The firm has agreed to forfeit the remaining security deposit of US \$ 40,000 and requested the Government to adjust the same towards penalty. The APFDC has stated that the firm has not paid the balance penalty of US \$ 1,15,000 and requested for arbitration under the agreement condition. The APFDC has requested the Govt. to dispose of the representation made by the Corporation, to Govt. to arbitrate in the matter of cancellation of agreements and forfeiture of security deposits. The APFDC also requested the Govt. to issue orders whether the US \$ 50,000 can be remitted to the Forest Department.

6. In the reference 5th read above, the Prl. Chief Conservator of Forests, A.P. Hyderabad also requested the Govt. to issue orders to the APFDC to pay the Department. US \$ 50,000/- along with US \$ 30,476.14 collected by them towards interest on delayed payment by the Corporation to the Forest Department. He has also requested the Govt. to finalize the representation pending before the Govt. for arbitration, as upon such finalization of the arbitration, the company is liable to pay the balance amount towards the 250 MTs of RS Wood unlifted by them and this will add further revenue to the Government.

7. Government after careful examination of the issue in the light of the reports of Vice Chairman & Managing Director, APFDC Ltd./ the Principal Chief Conservator of Forests, Andhra Pradesh and the representation of M/s Japan Traditional Musical Instruments manufactures and wholesalers Association, Tokyo, Japan, have decided to upheld the termination of agreement by APFDC. Accordingly the Government as Arbitrator, hereby upheld the decision of the APFDC in terminating the Agreement entered into with M/s Japan Traditional Musical Instruments manufactures and wholesalers Association, Tokyo, Japan and also forfeiture of security deposits of \$ 10,000/- and \$ 40,000/- respectively covered in the agreements. Government further order for confiscation of unlifted quantity of 24.1867 MTs of RS Wood reapers available in the godowns of M/s Andhra Fogaku Pvt. Ltd. The forfeited amounts of \$ 50,000 be remitted to Forest Dept., immediately.

cont..

8. The VC&MD, APFDC Ltd., Hyderabad/ The Principal Chief Conservator of Forests, Andhra Pradesh, Hyderabad shall take further necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

JANAKI R.KONDAPI
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The VC&MD, APFDC Ltd., Hyderabad.

The Principal Chief Conservator of Forests,
Andhra Pradesh, Hyderabad.

Copy to:
M/s Japan Traditional Musical
Instruments manufactures and wholesalers Association,
Tokyo, Japan. (through APFDC Ltd.,)

//FORWARDED :: BY ORDER//

SECTION OFFICER